

MICHIGAN ELECTION LAW (EXCERPT)
Act 116 of 1954

168.868 Recount petition; notice to opposing candidates; counter petition; objections to recount petition; hearing; ruling; failure to give notice to opposing candidate.

Sec. 868. (1) If a candidate has filed a recount petition and made the deposit under sections 862 and 866, the clerk of the board of canvassers shall give notice of the recount petition to the opposing candidates described in this subsection within 24 hours after filing of the petition by delivering to each candidate a copy of the recount petition, or, if the candidate cannot be found, by leaving a copy at the candidate's last known place of residence with a member of the candidate's immediate family of suitable age. If a member of the candidate's family cannot be found, the clerk of the board of canvassers may give notice by posting the recount petition in a conspicuous place at the candidate's last known place of residence. The clerk of the board of canvassers is not required to give notice to candidates other than the 2 candidates who, according to the return of the board of canvassers, received the lowest number of votes among those candidates who were nominated or elected, and the 2 candidates who, according to the return of the board of canvassers, received the highest number of votes among those candidates who were not nominated or elected.

(2) A candidate may file a counter petition in the same manner as the original petition under section 866 within 48 hours after the original recount petition was filed with the board of canvassers. At the time of filing the counter petition, the counter petitioner shall deposit the sum of money as required in section 866 for the original petitioner. The clerk of the board of canvassers shall refund to the counter petitioner the money deposited by the counter petitioner if the original petitioner does not establish fraud or receive a certificate of election. Except as otherwise provided in this subsection, the counter petitioner shall file a copy of the counter petition with the secretary of state within 4 days after the time the original petition is filed with the proper board of canvassers as provided in this section. If the office or ballot question in question is a city, township, ward, village, or district office or ballot question, the counter petitioner is not required to file a copy of the counter petition with the secretary of state.

(3) On or before 4 p.m. of the seventh day after a recount petition has been filed under section 866, an opposing candidate may file objections to the recount petition with the appropriate board of canvassers. The opposing candidate shall set forth his or her objections to the recount petition in writing. Upon receipt of an objection under this subsection, the board of canvassers shall notify the petitioner and the objecting candidate of the date of the hearing of the board of canvassers to consider the objections. The board of canvassers shall allow the recount petitioner and the objecting candidate to present oral or written, or both, arguments on the objections raised to the recount petition at the hearing. Not later than 5 business days following the hearing, the board of canvassers shall rule on the objections raised to the recount petition. The board of canvassers shall not begin a recount unless 2 or more business days have elapsed since the board ruled on the objections under this subsection, if applicable.

(4) If the time designated for filing a petition under this section falls on a Saturday, Sunday, or legal holiday, the petition may be filed on the next succeeding business day. Failure of the clerk of the board of canvassers or the secretary of state to give notice to the opposing candidate as required in this section shall not affect the results of the recount.

History: 1954, Act 116, Eff. June 1, 1955;—Am. 1955, Act 271, Imd. Eff. June 30, 1955;—Am. 1959, Act 24, Eff. Mar. 19, 1960;—Am. 1963, 2nd Ex. Sess., Act 38, Imd. Eff. Dec. 27, 1963;—Am. 1969, Act 188, Imd. Eff. Aug. 5, 1969;—Am. 1995, Act 261, Eff. Mar. 28, 1996.

Popular name: Election Code